IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No: 10/540,296

Applicant(s):

Miragaya, et al.

Filed:

June 21, 2005

Title:

Formulations for the Rectal Administration of Thrombolytically-Active

Agents

TC/A.U.: Examiner:

Unassigned Unassigned

Docket:

976-28 PCT/US

Dated:

March 8, 2007

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Office of PCT Legal Administration

P.O. Box 1450

Alexandria, Virginia 22313-1450

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on 3/8/07 Signature 3/54

RENEWED PETITION UNDER 37 C.F.R. 1.47(a)

Sir:

Applicants' representative hereby submits a renewed petition to the Commissioner under 37 C.F.R. 1.47(a) for the acceptance of a declaration/power of attorney for the above-identified application executed by eight of the nine inventors, Maria Acelia Marrero Miragaya, Ana Aguilera Barreto, Lisette Gonzalez Chavez, Eduardo Martinez Diaz, Beatriz Torrez Cabrera, Carelia Cosme Diaz, Luciano Francisco Hernandez Marrero, and Beatriz Tamargo Santos on behalf of their joint inventor, Milesa Yeni Sarmiento Mayea, who has not signed the required declaration.

On January 18, 2006, a Petition under 37 C.F.R. 1.47(a) was filed with the United States Patent and Trademark Office for the acceptance of a declaration/power of attorney for the above-identified application executed by eight of the nine inventors, Maria Acelia Marrero Miragaya, Ana Aguilera Barreto, Lisette Gonzalez Chavez, Eduardo Martinez Diaz, Beatriz Torrez Cabrera, Carelia Cosme Diaz, Luciano Francisco Hernandez Marrero, and Beatriz Tamargo Santos on behalf of their joint inventor, Milesa Yeni Sarmiento Mayea, who has not signed the required declaration.

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On January 8, 2007, a Decision on the Petition under 37 C.F.R. 1.47(a) was issued by the United States Patent and Trademark Office. The Decision states that a petition under 37 C.F.R. 1.47(a) must be accompanied by (1) the fee under 37 C.F.R. 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 C.F.R. 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. The Decision indicates that items (1) and (3) have been satisfied.

As stated in the Petition under 37 C.F.R. 1.47(a) dated January 18, 2006, and recounted in the Declaration of Dr. Soniz Gonzalez Blanco, an internet search conducted in the English language using the Google[™] search engine for "Milesa Yeni Sarmiento" did not locate Milesa Yeni Sarmiento. The Decision, however, states that in the absence of a complete showing of what efforts were undertaken to ascertain the whereabouts of Ms. Mayea, it would not be appropriate to conclude that she "could not be found or reached after diligent effort" within the meaning of 37 C.F.R. 1.47(a).

Applicants have made a diligent effort to find the non-signing inventor. However, the non-signing inventor, Milesa Yeni Sarmiento Mayea, could not be found. The pertinent facts are recounted in the accompanying "Declaration" signed by Dr. Sonia Gonzalez Blanco, a Legal Representative and Patent Agent for the Assignee of the above-identified application, Centro De Ingenieria Genetica Y Biotecnologia.

On January 24, 2007, Dr. Blanco conducted internet searches using the Google[™] search engine, Yahoo![®] search engine, and Terra search engine using the keywords "Milesa Yeni Sarmiento Mayea." Searches conducted using Google[™] search engine, Yahoo![®] search engine, and Terra search engine did not locate contact information for Milesa Yeni Sarmiento Mayea.

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Further, on January 31, 2007, Dr. Blanco conducted a search of the 2005-2006 telephone directory for Ciudad de la Habana, Cuba. A search of the directory did not locate Milesa Yeni Sarmiento Mayea.

Moreover, on March 2, 2007, Dr. Blanco conducted another internet search using the AltaVista[™] search engine using the keywords "Milesa Yeni Sarmiento Mayea." The search did not locate Milesa Yeni Sarmiento Mayea.

In addition, Dr. Blanco declares that she does not have, nor was she able to locate, an e-mail address for Milesa Yeni Sarmiento Mayea.

In view of the foregoing, applicants have made a *bona fide* attempt to reach and find the non-signing inventor, Milesa Yeni Sarmiento Mayea.

The Decision further states that the Petition under 37 C.F.R. 1.47(a) filed on January 18, 2006 was accompanied by a declaration document signed by joint inventors Maria Acelia Marrero Miragaya, Ana Aguilera Barreto, Lisette Gonzalez Chavez, Eduardo Martinez Diaz, Beatriz Torrez Cabrera, Karelia Cosme Diaz, Luciano Francisco Hernandez Marrero, and Beatriz Tamargo Santos on behalf of themselves and non-signing joint inventor Milesa Yeni Sarmiento Mayea. However, the Decisions states that further inspection reveals that the published international application nominates "Carelia Cosme Diaz" as an inventor, whereas the declaration nominates "Karelia Cosme Diaz."

The declaration contains a typographical error in the spelling of the joint inventor, Carelia Cosme Diaz. Ms. Diaz has corrected the spelling of her name in the declaration, and has initialed and dated the change. Enclosed is the corrected declaration executed by each 37 C.F.R. 1.47(a) applicant on his or her own behalf and on behalf of the non-signing inventor.

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In view of the foregoing, applicants respectfully request that the renewed petition under 37 C.F.R. 1.47(a) be granted.

Respectfully submitted,

Edna I. Gergel, Ph.D. Registration No. 50,819 Agent for Applicants

HOFFMANN & BARON, LLP 6900 Jericho Turnpike Syosset, New York 11791 Tel. 516-822-3550 Fax. 516-822-3582

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:

Miragaya, et al.

Examiner:

Unassigned

Application No.:

10/540,296

Group Art Unit:

Unassigned

Filing Date:

June 21, 2005

Docket:

976-28 PCT/US

For:

Formulations for the Rectal

Dated:

March 7, 2007

Administration of

Thrombolytically-Active

Agents

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

DECLARATION

I, the undersigned, Dr. Sonia González Blanco, declare as follow:

- 1. This Declaration is given as proof of certain pertinent facts asserted in a Renewed Petition under 37 C.F.R. 1.47(a) in connection with the above-referenced patent application in which one of the named inventors, Milesa Yeni Sarmiento Mayea, could not be found.
- 2. I am a Legal Representative and Patent Agent with Centro De Ingenieria Genetica Y Biotecnologia, the assignee of the above-identified application, and the facts contained herein are known to me personally.
- 3. On January 24, 2007, I conducted an internet search using the Google™ search engine at the URL address http://www.google.com and the Yahoo![®] search engine at the URL address http://www.yahoo.com. The searches were conducted in either the Spanish language or in both the Spanish language and English language using the following keywords "Milesa Yeni Sarmiento Mayea." The results of the Google™ searches only located Milesa Yeni Sarmiento Mayea's patent applications filed by the assignee of the above-referenced application. The searches using Yahoo![®] did not locate Milesa Yeni Sarmiento Mayea. Attached as Exhibit A is a copy of the search results.
- 4. On January 24, 2007, I conducted another internet search using the Spanish search engine Terra at the URL address http://www.terra.com. The search was conducted using the following keywords "Milesa Yeni Sarmiento Mayea." The search using Terra did not locate Milesa Yeni Sarmiento Mayea.

- 5. On March 2, 2007, I conducted another internet search using the AltaVista™ search engine at the URL address http://www.altavista.com. The search was conducted in both the Spanish language and English language using the following keywords "Milesa Yeni Sarmiento Mayea." The search using AltaVista™ did not locate Milesa Yeni Sarmiento Mayea. Attached as Exhibit B is a copy of the search results.
- 6. On January 31, 2007, I conducted a search of the 2005-2006 telephone directory for Ciudad de la Habana, Cuba. The telephone directory is organized according to the first family name. With regards to Milesa Yeni Sarmiento Mayea, the first family name is "Sarmiento." The "Mayea" portion is the family name of Milesa Yeni Sarmiento Mayea's mother, and is the second family name. Therefore, a search was conducted in the telephone directory under the "Sarmiento" portion of the name. A search of the 2005-2006 telephone directory for Ciudad de la Habana, Cuba did not locate Milesa Yeni Sarmiento Mayea. Attached as Exhibit C is a copy of the 2005-2006 Ciudad de la Habana, Cuba telephone directory.
- 7. I do not have, nor was I able to locate, an e-mail address for Milesa Yeni Sarmiento Mayea.
- 8. I hereby declare that all statements made herein of my knowledge are true and all statements made on information and belief are believed to be true. Further, that these statements were made with the knowledge that willfully false statements and the like so made are punishable by fine or imprisonment or both under Section 1001 of Title 18 of the United States code, and that such willfully false statements may jeopardize the validity of the application of any patent issued thereon.

Date: March 7, 2007

Signature:

Sonia Gonzalez Blanco

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[72] SARMIENTO MAYEA, MILESA. YENI, CU. [72] COSME DIAZ, CARELIA, CU. [71] CENTRO DE INGENIERIA. GENETICA Y BIOTECNOLOGIA (CIGB),. CU. [85] 2005-06-

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SARMIENTO MAYEA, Milesa, Yeni WO 2004/058219. SARTOR, Olivier, A. WO 2004/058165. SASAKI, Atsushi. WO 2004/058682. SASAKI, Hidetada. WO 2004/058301 ... www.wipo.int/edocs/pctdocs/en/2004/pct_2004_29-section3.pdf - Similar pages

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Milesa Yeni Sarmiento Mayea, Luciano Francisco Hernández Marrero, Beatriz. Tamargo

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(72) COSME DIAZ, Carelia; SARMIENTO. MAYEA, Milesa, Yeni; HERNANDEZ.

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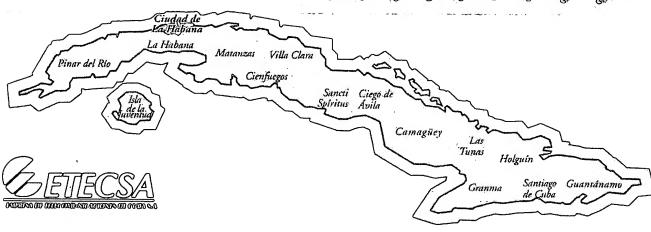
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	COMBINED DECLARATION AND POW	ER OF ATTORNEY
	(ORIGINAL, DESIGN, NATIONAL STAGE OF DIVISIONAL, CONTINUATION	
	As a below named inventor, I hereby declare that:	
	TYPE OF DECLARATION	N
	This declaration is of the following type: (check one)	
	☐ Original ☐ Supplemental ☐ Design	☑ National Stage PCT☐ Divisional☐ Continuation☐ Continuation-in-Part (CIP)
	INVENTORSHIP IDENTIFIC	ATION
NOTE:	If the inventors are each not the inventors of all the claims an explanation of the last claimed invention was made, should be submitted.	e facts, including the ownership of all the claims at the time
	My residence, post office address and citizenship are as stat	ed below next to my name.
	I believe I am the original, first and sole inventor (if only one rentor (if plural names are listed below) of the subject matter with nvention entitled:	name is listed below) or an original, first and hich is claimed and for which a patent is sought
FORMU	JLATIONS FOR THE RECTAL ADMINISTRATION OF THROM	MBOLYTICALLY-ACTIVE AGENTS
the spe	cification of which: (complete (a), (b) or (c))	
	(a) is attached hereto.	
	(b) ☑ was filed on <u>June 21, 2005</u> as ☑ Serial No. 10/540,296 or ☐ Express Mail No, as Serial No. not yet king and was amended on (If appli	nown cable)
	(c) was described and claimed in PCT International Appli filed on and as amended under PCT Article	

ACKNOWLEDGMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above, and that the filing of said specification, if heretofore filed, was authorized by me.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, §1.56(a).

Page 1

CLAIM OF PRIORITY OF EARLIER FOREIGN APPLICATION(S) UNDER 35 U.S.C. §119(a)-(d)

I hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed:

(List prior foreign/PCT application(s) filed within 12 months (6 months for design) prior to this U.S. application.)

NOTE: Where item (c) is entered above and the International Application which designated the U.S. claimed priority check item (e), enter the details below and make the priority claim.

				•
COUNTRY (orPCT)	APPLICATION NO.	DATE OF FILING (Day/Month/Year)	PRIORITY UNDER 35	
Cuba	2002-0336	27 December 2002	⊠ YES	□ NO
			☐ YES	□ NO
CLAIM FOR	BENEFIT OF PRIOR U.S. PROVI	SIONAL APPLICATION(S) U	NDER 35 U.S.C.	§119(e)
I hereby cla application(s) listed t	im the benefit under Title 35, Unite pelow:	ed States Code, §119(e) of an	y United States p	rovisional
(List prior U.S.	provisional applications.)			
PROVISIONAL APP	LICATION NO.		ING DATE y/Month/Year)	

CLAIM FOR BENEFIT OF EARLIER U.S./PCT APPLICATION(S) UNDER 35 U.S.C. 120

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) or PCT international application(s) designating the United States of America that is/are listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in such prior application(s) in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) which occurred between the filing date of the prior application(s) and the national or PCT international filing date of this application:

(List prior U.S. applications or PCT international applications designating the U.S. for benefit under 35 U.S.C. §120.)

U.S. APPLICATIONS

PRIORITY

COUNTRY

Cuba

PRIORITY

APPLICATION NO.

CU 2002-0336

STATUS (Check One)

ISSUE DATE

(Day/Month/Year)

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POWER OF ATTORNEY

27 December 2002

FILING DATE (Day/Month/Year)

As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) at Customer Number 23869 to prosecute this application and transact all business in the Patent and Trademark Office in connection therewith.

PLEASE SEND CORRESPONDENCE TO:

Ronald J. Baron, Esq. HOFFMANN & BARON, LLP 6900 Jericho Turnpike Syosset, NY 11791 PLEASE DIRECT TELEPHONE CALLS TO:

Edna I. Gergel, Ph.D.

(516) 822-3550

DECLARATION

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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Date: // 8/05	Inventor's signature X Damago.

NOTE: All above spaces identifying inventors must be completed or deleted before any inventor executes this application